

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Will Allen, Redevelopment Administrator/797-2093

SUBJECT: Resolution

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE PURCHASE OF PROPERTY FROM F. W. HOLDING 441, INC.; AND PROVIDING FOR AN EFFECTIVE DATE

REPORT IN BRIEF: This resolution authorizes the Town to purchase 1.1292 acres of property located at Oakes Road and State Road 7. The property has been identified by Town Staff as an appropriate site for location of a fire/rescue station. The owner of the property is F. W. Holding 441, Inc. A contract has been prepared for the purchase and will be signed by the sellers prior to the Town Council meeting. The price of the property is \$665,000. This offer was based on two independent appraisals obtained by the Town. The appraisals justify the offer as the appraisals estimate the value at \$690,000 and \$682,000 respectively. The purchase price includes assignment of a lease for an existing billboard on the property.

The CRA reviewed the purchase of this property at their meeting of October 28, 2002. The CRA authorized use of CRA funding to purchase the property as it is consistent with the Town of Davie Community Redevelopment Plan. A motion was approved which authorized the Town to make the purchase using CRA funds. The motion was contingent upon the CRA attorney approving the form of contract and all documents regarding the purchase conditions on behalf of the CRA. The CRA attorney has been involved in preparing and reviewing the contract and documents. The use of CRA funds was also contingent upon having the Town Council adopt a resolution which approves the use of carryforward funds to pay for the purchase. Otherwise there would not be sufficient funds to make the purchase. A resolution authorizing the use of the carryforward funds is on the agenda preceding the resolution to purchase the property.

Public safety has been identified as a high priority by the Town Council. Construction of a fire/rescue station on the east side of Town is part of the approved Capital Improvement Program for the Town for the period of 2001-2007. Purchase of this property is consistent with this plan.

The timing of this approval is important and why it is being brought to the Town Council so soon after the CRA meeting on October 28 as the seller has made it clear that they need to close on the property by December 16, 2002. This can be accomplished and have the Town complete its due diligence such as updated environmental assessments, etc.

PREVIOUS ACTIONS: The previous resolution on the agenda authorizes using carryforward funds to pay for the purchase of this property.

CONCURRENCES: The Davie CRA authorized using carryforward funds to purchase the property at their October 28, 2002 meeting.

FISCAL IMPACT:

Has request been budgeted? yes, assuming the carryforward resolution is approved prior to the resolution to purchase the property.

If yes, expected cost: \$665,000.00

Account Name: Special Projects 01-0405-515.05-02

RECOMMENDATION(S): Motion to approve the Resolution.

Attachment(s): Resolution
Survey of Subject Property
Appraisal Reports -Summary Pages

RESOLUTION _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE
PURCHASE OF PROPERTY FROM F. W. HOLDING 441, INC.; AND PROVIDING FOR
AN EFFECTIVE DATE

WHEREAS, the Town of Davie has identified a 1.1292 acre site at Oakes Road and State Road 7, more particularly described in Exhibit "A" attached hereto, for acquisition for the purpose of constructing a fire/rescue station in the future; and

WHEREAS, the property is owned by F. W. Holding 441, Inc.; and

WHEREAS, F. W. Holding 441, Inc. has signed a contract for purchase and sale of the subject property for the amount of \$665,000.00 and for each party to pay the customary closing costs; and

WHEREAS, the Town has obtained two independent appraisals which substantiate the purchase price and also the Contract for Purchase and Sale grants the Town of Davie an Inspection Period to obtain a survey and other investigations; and

WHEREAS, at anytime prior to the expiration of the Inspection Period, the Town has the right in its sole discretion to reject or accept the property and obtain a refund of its deposit.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE FLORIDA.

SECTION 1. The Town Council authorizes the Mayor to execute a Contract For Purchase and Sale for the proposed fire/rescue station site, a copy of which is attached hereto as Exhibit "B". The Town Staff is authorized to take all necessary actions to close on the acquisition of the subject property from F. W. Holding 441, Inc., a Florida corporation.

SECTION 2. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2002.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2002.

Exhibit "A"

Legal Description

Parcel "A" YAF Plat, according to the Plat thereof, as recorded in Plat Book 125, Page 26, of the Public Records of Broward County, Florida,

Together with:

A portion of the right of way as shown on the YAF Plat, according to the Plat thereof, as recorded in Plat Book 125, Page 26, of the Public Records of Broward County, Florida, and a portion of Newmans Survey according to the Plat thereof, as recorded in Plat Book 2, Page 26, of the Public Records of Dade County, Florida, being more particularly described as follows:

Commence at the southwest corner of Parcel A of said YAF Plat; thence north 88°41'49" east, along the south line of Parcel A of said YAF Plat, 41.64 feet to the point of beginning (the following five courses are along the south line of said Parcel A); thence north 88°41'49" east, 43.39 feet; thence north 01°18'11" west, 12.00 feet; thence north 88°41'49" east, 70.00 feet; thence south 76°01'35" east 45.54 feet; thence north 51°51'38" east, 41.97 feet, thence south 15°01'28" west, along a line being the prolongation of the east line of said Parcel A, a distance of 67.90 feet, thence south 88°41'49" west, along the centerline of SW 36th Street (Oakes Road) 183.40 feet; thence north 14°50'17" east, along a line being the prolongation of the east line of the 40 foot access easement along the west side of said Parcel A, as shown on said YAF Plat, 41.64 feet to the point of beginning. Said lands situate, lying and being in the Town of Davie, Broward County, Florida, containing 8772 square feet (0.201 acres), more or less.

Total Parcel Area – 49,188 square feet of 1.1292 acres more or less.

Exhibit "B"

CONTRACT FOR PURCHASE AND SALE

(F.W. Holding 441, Inc. Property)

This CONTRACT FOR PURCHASE AND SALE (the "Contract") is entered into this _____ day of _____, 2002, by and between **F.W. HOLDING 441, INC.**, a Florida corporation (the "Seller"), and **TOWN OF DAVIE**, a municipal corporation of the State of Florida (the "Buyer").

For and in consideration of the mutual covenants and obligations created hereby as well as other good and valuable considerations, Buyer agrees to buy and Seller agrees to sell the following described property subject to and upon the terms and conditions set forth below. The effective date of this Contract (the "Effective Date") shall be the date upon which the last of Seller and Buyer shall have signed this Contract or initialed any changes thereto.

1. Property. The property which is the subject of this Contract consists of the following: the fee simple good, marketable and insurable title to the real property described in Exhibit "A" attached hereto (the "Property"); together with all riparian rights, easements, privileges, servitudes, appurtenances and other rights pertaining to the Property.

2. Deposit. Upon receipt of a copy of this Contract executed by Seller and Buyer, Buyer shall immediately deposit in escrow with Holland & Knight LLP (the "Escrow Agent") One Thousand and 00/100 Dollars (\$1,000.00) (the "Deposit"), which shall be placed in a separate interest-bearing escrow account under the Buyer's Federal Employer Tax Identification Number. The Deposit shall be held by Escrow Agent and utilized in accordance with the provisions of this Contract. The Deposit, if this transaction closes, shall become a credit in favor of the Buyer against the Purchase Price at Closing. If this transaction shall fail to close, the disposition of the Deposit shall be as provided herein, and the interest on the Deposit shall follow the Deposit and inure to the benefit of the party entitled thereto. Reference to the Deposit throughout this Contract shall include any and all accrued interest thereon.

3. Purchase Price. The Purchase Price of the Property (the "Purchase Price") shall be Six Hundred Sixty-Five Thousand and 00/100 Dollars (\$665,000.00). The Purchase Price is subject to prorations and adjustments as herein provided.

4. Evidence of Title.

A. Within fifteen (15) days following the Effective Date, the Buyer shall obtain, at Seller's expense, an ALTA title insurance commitment, including hard copies of all title exceptions, issued by a Title Insurance Company authorized to conduct business in the State of Florida (the "Title Insurance Company"), proposing to insure Buyer's title to the Property (the "Title Evidence"). Buyer shall have up to and including fifteen (15) days following Buyer's receipt of the Title Evidence (the "Title Review") to review the Title Evidence. If the Title Evidence reveals that title to the Property is not good, marketable and insurable in accordance with the standards adopted by The Florida Bar, then Buyer shall, within the Title Review period, notify Seller in writing specifying the title defect(s) (the "Title Defects") and the curative action required to render such matters acceptable to Buyer. If said Title Defect(s) render title to the Property unmarketable and/or uninsurable, Seller shall have thirty (30) days from receipt of such notice

within which to remove said Title Defects or Buyer may accept title to the Property "as is" without reduction in the Purchase Price and proceed to close. If Buyer does not elect to accept title to the Property "as is", or if Seller is unsuccessful in removing the Title Defects within said thirty (30) day period, despite Seller's due diligence and best efforts to remove the Title Defects, then the Buyer shall elect within ten (10) days after the end of the thirty (30) day period to either: (i) accept the title to the Property as it then is without reduction in the Purchase Price or claim against Seller therefore; or (ii) demand a refund of the Deposit, which shall forthwith be returned to Buyer by the Escrow Agent, and thereafter Buyer and Seller shall be released from all further obligations under this Contract. Notwithstanding anything to the contrary set forth in this Paragraph 4, if title to the Property is unmarketable because of liens in a liquidated amount that can be released if satisfied by the payment of money alone, then Buyer shall accept title to the Property as it then is and, at the time of the Closing hereunder, such liens shall be paid from the cash to close, and the amount due Seller shall be reduced by such amount, or the Seller shall remove same by statutory permitted bond. Seller agrees that Seller shall, if title to the Property is found to be unmarketable, use its best efforts to cure the Title Defects within the time limit set forth herein.

B. If at any time subsequent to the delivery of the Title Evidence and prior to the Closing of this transaction, title to the Property is found to be subject to additional exceptions not revealed by the Title Evidence ("Additional Defects"), Buyer shall give written notice of such Additional Defects to Seller prior to the Closing Date. Any Additional Defects, other than those created by, through or under Buyer, shall be removed of record by Seller and, if necessary, Closing shall be delayed by a period not to exceed sixty (60) days to allow such removal. If such Additional Defects are not corrected within said sixty (60) day period, then Buyer shall have the same options as Buyer has been granted herein as if Seller did not cure the Title Defects.

5. Survey. Within thirty (30) days following the Effective Date, Buyer may obtain, at Buyer's expense, a currently dated survey (the "Survey") of the Property prepared by a Florida licensed surveyor which shall include a delineation of existing easements on the Property certified to the Buyer, Buyer's attorney, Buyer's Lender, if any, and the Title Insurance Company. Buyer shall deliver a sealed copy of the Survey to Seller within said thirty-day period. If the Survey shows any easements, encroachments or other matters which would impair the Buyer's proposed development of the Property, the same shall be treated as a Title Defect and such Title Defect shall be governed by the provisions contained within Paragraph 4 of this Contract.

6. Right to Enter/Inspection Period.

A. Seller hereby grants to Buyer the right to enter upon the Property during the Inspection Period as set forth below to inspect, investigate and conduct tests and environmental audits on the Property and take whatever action Buyer deems necessary or desirable to determine the Property's suitability for Buyer's intended use. Buyer shall restore the Property to the condition existing prior to Buyer conducting any tests on the Property pursuant to this Paragraph 6. To the extent allowed by law, the Buyer shall hold Seller harmless for any damage resulting from the failure of Buyer or the agents, contractors, employees and representatives of Buyer to exercise reasonable care in the conduct of such tests, inspections or examinations.

B. Buyer shall have up to and including December 9, 2002, to conduct an examination of the Property to determine the Property's suitability for Buyer's intended use ("Inspection Period"). During the Inspection Period, Seller agrees to provide Buyer with access to any documents or information which Seller has in its possession relating to the Property, including, without limitation, surveys and title evidence.

C. To the extent permitted by law, Buyer shall timely pay for and hold Seller harmless from liability for all tests, services, inspections, audits and examinations performed on Buyer's behalf under this Paragraph 6 so that the Property does not become subject to any liens. Buyer has no authority or right to create liens upon the Property. If such a lien occurs, Buyer shall remove same by a statutory permitted bond or otherwise within five (5) days of Notice from Seller.

D. At any time prior to expiration of the Inspection Period, Buyer shall have the sole alternative, at its absolute discretion, of either (i) rejecting the Property, in which event Buyer shall notify Seller and Escrow Agent in writing prior to the expiration of the Inspection Period of Buyer's intention to terminate this Contract, whereupon Escrow Agent shall promptly return the Deposit to Buyer and both parties shall be released from any further rights and obligations hereunder; or (ii) accepting the Property and proceeding with performance of Buyer's obligations hereunder and to close this transaction. In the event Buyer fails to notify Seller of Buyer's rejection of the Property as provided herein, such failure shall be deemed an acceptance of the Property by the Buyer.

7. Closing Documents.

A. At the Closing, Seller shall deliver to Buyer the following:

(1) Warranty Deed in Statutory Form ("Deed"), in recordable form, conveying fee simple title to the Property, subject to those exceptions accepted by Buyer pursuant to Paragraph 4 above;

(2) An affidavit from Seller testifying that (i) it will take no action prior to recording the Deed to Buyer affecting the title to the Property, (ii) Seller has collected and remitted all taxes and filed all applicable tax returns in connection with the use and operation of the Property and is current in the payment of all such taxes, except for the current year's real estate taxes, (iii) there are no actions or proceedings now pending in any state or Federal court or other governmental body of which Seller is a party, including, but not limited to, proceedings in bankruptcy, receivership or insolvency, which would adversely affect the title to the Property or Seller's ability to close on the sale of the Property to Buyer, and (iv) there are no parties in possession of or with any rights to possession of any portion of the Property other than Buyer, except as otherwise provided herein.

(3) No-lien Affidavit;

(4) A Certificate of Non-Foreign Status or statement complying with Section 1445(b)(2) or (3) of the Internal Revenue Code of 1986, as amended;

- (5) A Closing Statement;
- (6) Public Disclosure Act Affidavit pursuant to Section 286.23, Florida Statutes;
- (7) Sworn Statement Under Section 287.133(3)(a), Florida Statutes;
- (8) Form 1099;
- (9) An assignment of the Eller Media Lease (as hereinafter defined) from Seller to Buyer; and
- (10) Such other instruments as the Title Insurance Company shall reasonably require, including a good standing certificate and appropriate Corporate Resolution authorizing the sale.

8. Place of Closing. The Closing shall be held at the offices of Monroe Kiar, Esq., Town Attorney, 6191 S.W. 45th Street, Suite 6151A, Davie, Florida 33314, or at such other place as is agreed to by the parties.

9. Closing Date. The Closing of this transaction ("Closing") shall occur on or before December 16, 2002 ("Closing Date").

10. Closing Costs. Buyer shall pay the costs of Buyer's inspection of the Property, Buyer's attorney's fees and the cost of the Survey. Seller shall pay the costs of the Title Evidence, any title insurance premium, the costs of the Florida documentary stamp tax on the Deed, the costs of recording the Deed, Seller's legal fees, and the cost of curing Title Defects or Additional Title Defects, if any, in accordance with Paragraph 4 above.

11. Real Estate Taxes: Assessments. Real estate taxes on the Property shall be prorated as of the Closing Date based on the current year's taxes, if known. If a Closing occurs at a date when the current year's taxes are not fixed and the current year's assessment is available, taxes shall be prorated based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated on the prior year's tax. However, any tax proration based on the prior year's tax may, at the request of either party to the transaction be subsequently readjusted upon receipt of the current year's tax bill. All such prorations will have been based on actual tax or estimated tax and make appropriate allowance for the maximum allowable discount or other exemptions. In the event either party fails or refuses to reprorate the real estate taxes within ten (10) days following receipt of a request by the other party for such reproration, then the amount due shall bear interest from the expiration of said ten (10) day period at the rate of eighteen (18%) percent per annum. In the event a party is obligated to institute legal proceedings to recover the reproration of real estate taxes and the interest due as herein set forth, the prevailing party shall be entitled, in addition, to recover reasonable attorneys' fees and costs from the non-prevailing party. Seller shall remit prorated real estate taxes to the Broward County Revenue Collector in accordance with applicable

provisions of Florida law.

All certified assessment liens shall be paid by Seller, and all other assessment liens shall be assumed by Buyer.

12. Condemnation. In the event that any portion of the Property shall be threatened by or taken in condemnation or under the right of eminent domain after the Effective Date hereof and prior to the Closing Date, this Contract, at the option of Buyer, may either: (a) be declared null and void with respect to the Property; or (b) continue in effect and the proceeds received from such condemnation or eminent domain proceeding shall be retained by Seller and applied to reduce the Purchase Price, or (c) if condemnation or eminent domain proceedings are not completed, assigned at Closing to Buyer. If Buyer elects to complete the sale of the Property pursuant hereto, Seller shall not negotiate a settlement of any pending condemnation or eminent domain proceedings without the prior consent of Buyer.

13. Proceeds of Sale and Closing Procedure. At the Closing, Buyer shall pay to Seller the Purchase Price, plus or minus any prorations or adjustments permitted by this Contract. The Deposit, together with interest earned thereon, shall be applied to the Purchase Price. Payment of the Purchase Price shall be made in the form of a cashier's check or immediately available federal wire funds payable or wired to the Seller's account or other account designated by Seller in writing.

14. Escrow.

A. During the Inspection Period, Escrow Agent agrees, by acceptance of the Deposit, to comply with the instructions of Buyer as to whether Escrow Agent shall return the Deposit to Buyer if it is not satisfied with the matters discovered during the Inspection Period or continue to hold the Deposit pursuant to the terms of this Contract.

B. In the event of any dispute between Seller and Buyer as to the disposition of the Deposit, Escrow Agent shall have the right to interplead all parties hereto and thereupon be freed from further liability to either or both parties. The non-prevailing party in such litigation shall pay reasonable expenses incurred by Escrow Agent in connection with such interpleading, and the non-prevailing party shall pay the other party's reasonable legal and other expenses incurred in connection therewith. Except for its grossly negligent or willful acts, Escrow Agent shall be excused from all responsibility, including insolvency of any depository, and shall be indemnified and held harmless by Seller and Buyer, to the extent permitted by law, from all claims, demands, liability, costs and expenses associated with its duties as Escrow Agent hereunder.

C. Escrow Agent shall not charge Seller or Buyer for its services as Escrow Agent.

15. Conditions Precedent and Termination. Not to the exclusion of any other conditions and remedies contained herein, the obligations of Buyer hereunder shall be subject to satisfaction of the following conditions precedent ("Conditions Precedent") on or before each of the dates specified in such subparagraphs, if any, or the Closing Date, if no other such date is specified:

A. The representations and warranties made by Seller herein shall be true and correct statements of fact as said facts exist as of the Closing Date, with the same force and effect as though such representations and warranties had been made as of the Closing Date; and

B. All terms, covenants and provisions of this Contract to be complied with and performed by the Seller on or before the Closing Date shall have been duly complied with and performed.

If the conditions set forth above are not satisfied on or before the Closing Date, or as otherwise provided herein, then, at Buyer's option, Buyer may: (i) waive any or all such unsatisfied conditions and proceed to Closing as provided herein; (ii) extend the Closing Date an additional thirty (30) days by giving Seller written notice of such extension prior to the original Closing Date; or (iii) terminate this Contract by giving Seller written notice thereof at any time prior to the Closing Date (or extended Closing Date), in which event this Contract shall be cancelled and the Deposit shall be returned to the Buyer.

16. Agreements of Seller.

A. Seller agrees that, from the Effective Date and until the earlier to occur of termination of this Contract, expiration of this Contract, or Closing:

(1) Seller shall maintain the Property in the same condition as it is as of the date of Buyer's execution of this Contract and in accordance with all requirements of any governmental authority, reasonable wear and tear excepted, which agreement shall survive the Closing;

(2) Seller shall not encumber the Property or permit the Property to be additionally encumbered, without the consent of the Buyer, with any easements, agreements, concessions, licenses, judgments, leases or other third party rights or with any mortgage or other monetary lien or encumbrance and at or prior to Closing, any judgments, leases and third-party rights shall be terminated and/or released to Buyer's satisfaction in its sole and absolute judgment and discretion;

(3) Seller shall promptly notify Buyer of any change in any condition with respect to the Property or of any event or circumstance which makes, or will make, any representation or warranty of Seller to Buyer under this Contract untrue or misleading or any covenant of Seller to Buyer under this Contract incapable or less likely of being performed and shall deliver to Buyer any and all notices with respect to or affecting the Property promptly upon receipt of same (including, without limitation, all notices with respect to real estate taxes or special assessments affecting the Property or any portion thereof); and

(4) Seller shall, upon written request from Buyer, obtain such estoppel letters and consents to this Contract and such alternative information and certifications as Buyer may require, in form and substance acceptable to Buyer, from the holders of any mortgage, lien,

security interest, judgment or other encumbrance on all or any portion of the Property or against Seller.

17. Representations and Warranties of Seller. Seller represents and warrants to Buyer as follows, which representations and warranties shall be deemed made by Seller to Buyer as of the Effective Date, and shall survive Closing or any termination of this Contract, and Seller acknowledges that, but for such representations and warranties, Buyer would not execute this Contract:

A. This Contract, and the consummation of the transactions described herein, and all agreements, instruments and documents herein provided to be executed or to be caused to be executed by Seller have been or shall be, duly authorized, executed and delivered by, and, upon delivery thereof, shall be binding upon and enforceable against Seller in accordance with their respective terms.

B. Seller has the legal right, power and authority to enter into this Contract and to perform all of its obligations hereunder, and the execution and delivery of this Contract and the performance by Seller of its obligations hereunder shall not conflict with or result in a breach of any law or regulation, or order, judgment, writ, injunction or decree of any court or governmental instrumentality or any agreement or instrument to which Seller is a party or by which Seller is bound or to which Seller or any portion of the Property is subject.

C. Seller has not granted any option or other right to purchase or otherwise acquire any portion of the Property, or any interest therein, to any party except Buyer pursuant to this Contract. The Property is vacant and there are no tenants legally occupying the Property.

D. Seller holds record fee simple absolute title to the Property.

E. Seller is not a foreign person and is not in any manner controlled by a foreign person within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.

F. To the best knowledge of Seller, Seller has not received any notice of violation of any applicable law pertaining to the Property or any portion thereof, the provisions of which have not been complied with, nor does Seller have knowledge of any such violation.

G. To the best knowledge of Seller, there are no pending actions, suits, claims or legal proceedings affecting the Property or any portion thereof, at law or in equity, before any court or governmental agency.

H. Seller has not, nor, to the best knowledge of Seller, has any predecessor in title, executed or caused to be executed any document with or for the benefit of any governmental authority restricting the development, use or occupancy of the Property;

I. As of the Effective Date, to Seller's actual knowledge no Hazardous Substances (as hereinafter defined) have been released or discharged into any waterbed on

the Property or the Property itself, and no Hazardous Substances are present on the Property in violation of any state, local or federal rule or statute.

18. Representations and Warranties of Buyer. Buyer represents and warrants that it has the lawful authority to purchase the Property and to otherwise carry out the terms of this Contract, and the execution and delivery of this Contract and the performance thereof is not prohibited by or inconsistent with any agreement to which Buyer is a party or pursuant to which Buyer exists as a legal entity. Buyer also represents and warrants that it is a duly formed, validly existing municipal corporation under the laws of Florida, and that all necessary authorizations and approvals have been obtained authorizing Buyer to execute this Contract and consummate the transaction contemplated hereby.

19. Hazardous Substances. If, at any time during the term of this Contract, Buyer shall discover any Hazardous Substances on, under or about the Property, Buyer may (i) proceed to close the transaction, or (ii) terminate this Contract by providing Seller with written notice thereof within thirty (30) days following such discovery by Buyer, in which event this Contract shall be cancelled and the Deposit returned to the Buyer. As used herein, the term "Hazardous Substances" means petroleum, petroleum products, asbestos, asbestos containing materials, lead, lead containing materials, any other hazardous, toxic or dangerous substance, material, or waste as defined for purposes of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, *et seq.* ("CERCLA"); Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 *et seq.* ("HMTA"); the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, *et seq.* ("RCRA"), and all amendments to the foregoing, or any other federal, state or local law, ordinance, rule or regulation applicable to the Property, and establishing liability, standards or required action as to discharge, spillage, storage, uncontrolled loss, seepage, filtration, disposal, removal, use or existence of a hazardous, toxic or dangerous substance, material or waste.

20. Arbitration of Disputes.

A. Without limiting any rights set forth in other provisions of this Contract, any and all disputes arising hereunder shall be submitted to binding arbitration and not to a court for determination. Arbitration shall commence after written notice is given from either party to the other, such arbitration shall be accomplished expeditiously in the county and state where the Property which is the subject of this Contract is located, and shall be conducted in accordance with the rules of the American Arbitration Association ("AAA"). The arbitration shall be conducted by one (1) arbitrator jointly selected by Seller and Buyer. The arbitrator shall be selected from a list of arbitrators submitted by the AAA. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Arbitration shall not commence until the party requesting it has deposited one thousand five hundred and No/100 U.S. dollars (\$1,500.00) with the arbitrator as a retainer for the arbitrator's fees and costs. The party requesting arbitration shall advance such sums as are required from time to time by the arbitrator to pay the arbitrators' fees and costs, until the prevailing party is determined or the parties have agreed in writing to an alternate allocation of fees and costs. Each party shall pay its own legal fees and costs and any other fees incurred in connection with an arbitration proceeding which arises out of or relates in any way to this Contract provided, however, that the arbitrator shall award the arbitrator's fees and costs to the prevailing party in its arbitration judgment.

B. Notwithstanding the parties intent to submit any controversy or claim arising out of or relating to this Contract or any other document signed or initialed in connection with this Contract to arbitration, in the event that a court of competent jurisdiction shall determine or a relevant law shall provide that a particular dispute is not subject to the arbitration provisions of this Paragraph 20, then the parties agree to the following provision:

(1) Each party acknowledges that this Contract is a sophisticated legal document. Accordingly, justice will best be served if issues regarding this Contract are heard by a judge in a court proceeding, and not a jury. Each party agrees that any claim, demand, action, or cause or action, with respect to any action, proceeding, claim, counterclaim, or cross claim, whether in contract or in tort (regardless if the tort action is presently recognized or not), based on, arising out of, in connection with or in any way related to this Contract, the documents (including, without limitation, any declaration), any course of conduct, course of dealing, verbal or written statement, validation, protection, enforcement action or omission of any party shall be heard by a judge in a court proceeding and not a jury.

(2) The party prevailing in such dispute shall be entitled to recover all costs incurred, including reasonable attorney's fees and costs, whether incurred before trial, at trial, in bankruptcy proceedings, or on appeal.

21. Default. In the event of a failure by Buyer or Seller to perform any obligation or covenant which either of them is obligated to perform under this Contract, except for the failure to close in accordance with the terms of this Contract, which failure shall constitute an immediate default hereunder, no default shall occur until notice thereof is given to the defaulting party by the other party hereto asserting an event of default has occurred, describing the nature of the default, and giving a period of five (5) days to cure the default, if readily curable by the payment of money, or a period of thirty (30) days to cure the default, if not readily curable by the payment of money. If after notice and the cure period provided in the preceding sentence, the Buyer is in default, then the balance of the Deposit shall be paid to and retained by and for the account of Seller as agreed and liquidated damages and in full settlement of any claims whatsoever, and this Contract shall terminate and be of no further force or effect. If Seller fails to perform any of its covenants set forth in this Contract or fails to properly convey the Property when obligated to do so in accordance with the terms hereof, Buyer shall be entitled to receive the return of the Deposit or seek specific performance against Seller.

22. Assignment. This Contract shall not be assigned by Buyer without Seller's prior written consent, which shall not be unreasonably withheld.

23. Persons Bound. The benefits and obligations of the covenants herein shall inure to and bind the respective successors and assigns of the parties hereto.

24. Survival of Covenants and Special Covenants. The terms, covenants, representations, and warranties of this Contract shall survive the Closing, except where expressly provided otherwise.

25. Notices. All notices, request, consents, instructions, and communications required or permitted under this Contract shall be in writing and shall be (as elected by the person giving such notice) hand-delivered by messenger or nationally recognized overnight courier service, transmitted by telex, telegraph or telecopier with confirmed answer back, or mailed (air mail if international) by registered or certified mail (postage prepaid), return receipt

requested, and addressed to each party at their respective addresses as set forth below or to such other addresses any party may designate by notice complying with the terms of this Paragraph 25.

IF TO SELLER:

F.W. HOLDING 441, INC.

4951 S.W. 34th Place

Davie, FL 33314

Telephone No. (954) _____

Fax No. (954) _____

IF TO BUYER: **TOWN OF DAVIE**
Attn: Thomas J. Willi, Town Administrator
6591 Orange Drive
Davie, Florida 33314

Copy to: Monroe Kiar, Esq.
Town Attorney
6191 S.W. 45th Street
Suite 6151A
Davie, Florida 33314
Telephone No. (954) 584-9770
Fax No. (954) 584-9723

ESCROW AGENT: HOLLAND & KNIGHT LLP
P.O. Box 14070
Fort Lauderdale, Florida 33302
Telephone No. (954) 525-1000
Fax No. (954) 463-2030

Each such notice, request, or other communication shall be considered given and shall be deemed delivered (a) on the date delivered if by personal delivery or courier service; (b) on the date of transmission with confirmed answer back if by telex or telegraph or telecopier if transmitted before 5:00 p.m. on a business day, and on the next business day if transmitted after 5:00 p.m. or on a nonbusiness day; or (c) on the date on which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed. Rejection, refusal to accept, or inability to deliver of which no notice was given shall be deemed to be a receipt of such notice, request, or other communication. The respective attorneys for Seller and Buyer are hereby authorized to give any notice pursuant to this Contract on behalf of their respective clients.

26. Miscellaneous.

A. Counterparts. This Contract may be executed in any number of counterparts, each of which shall be considered an original and all of which taken together shall constitute one and the same agreement.

B. Governing Law; Venue. This Contract shall be governed by Florida law. No amendments to this Contract shall be effective unless signed by both parties and in writing. Venue for any legal proceedings shall be in Broward County, Florida.

C. Complete Agreement. This Contract evidences the complete understanding of the parties hereto as respects the matters addressed herein. No agreement or representation, unless set forth in this Contract, shall bind either of the parties hereto.

D. Partial Invalidity. In the event that any paragraph or portion of this Contract is determined to be unconstitutional, unenforceable or invalid, such paragraph or portion of this

Contract shall be stricken from and construed for all purposes not to constitute a part of this Contract, and the remaining portion of this Contract shall remain in full force and effect and shall, for all purposes, constitute the entire agreement.

E. Construction of Contract. All parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Contract and that this Contract has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Contract shall not be construed or interpreted for or against any party hereto based upon authorship.

F. Waiver of Breach. The failure of any party hereto to enforce any provisions of this Contract shall not be construed to be a waiver of such or any other provision, nor in any way to affect the validity of all or any part of this Contract, or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Contract shall be held to constitute a waiver of any other or subsequent breach.

G. Time. Time is of the essence of this Contract.

27. Brokerage. Seller and Buyer each warrant and represent to the other that they have not dealt or consulted with any real estate broker or agent in connection with the Property or this transaction other than RE/Max Consultants, Inc., and Montalbano Commercial Realty, Inc. (the "Disclosed Brokers"). Seller shall indemnify and hold Buyer harmless from and against any and all claims of all brokers and finders claiming by, through or under Seller and in any way related to the sale and purchase of the Property or this Contract including, without limitation, attorneys' fees and expenses incurred by Buyer at the trial level and all levels of appeal in connection with such claim. To the extent provided by law, Buyer shall indemnify and hold Seller harmless from and against any and all claims of all brokers and finders claiming by, through or under Buyer and in any way related to the sale and purchase of the Property or this Contract, including, without limitation, attorneys' fees and expenses incurred by Seller at the trial level and at all levels of appeal in connection with such claim. Seller has agreed to pay a commission to the Disclosed Brokers pursuant to a separate listing agreement.

28. Existing Lease. The Buyer acknowledges and agrees that a portion of the Property is subject to a lease with Eller Media dated February 22, 2000 ("Eller Media Lease") (copy attached hereto as Exhibit "B"). Buyer agrees to accept title to the Property subject to the Eller Media Lease upon the following conditions: (i) Seller shall obtain from Eller Media a modification of the Eller Media Lease in a form reasonably acceptable to Buyer: (a) providing that the construction by Buyer of a fire station on the Property shall not constitute an obstruction under Section 7 of the Eller Media Lease, or otherwise violate said Section 7; and (b) deleting the last sentence of said Section 7 from the Eller Media Lease; (ii) Seller shall assign all of its rights, title and interest in the Eller Media Lease, as modified pursuant hereto, to Buyer at Closing, which assignment shall be in a form reasonably acceptable to Buyer; (iii) Seller shall obtain the written consent of Eller Media to the assignment of the Eller Media Lease, as modified pursuant hereto, to Buyer and an estoppel letter from Eller Media stating that the Eller Media Lease, as modified pursuant hereto, is in full force and effect and Seller is not in default under the terms thereof. All rents payable by Eller Media under the Eller Media Lease shall be prorated as of the

Closing Date.

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first above written.

WITNESSES:

Sign _____

Print _____

Sign _____

Print _____

SELLER

F.W. HOLDING 441, INC., a Florida corporation

By : _____

Print: _____

Title _____

BUYER

TOWN OF DAVIE, a municipal corporation of the
State of Florida

ATTEST:

By: _____
Harry Venis, Mayor

Russell Muniz, Town Clerk

Exhibit "A"

Legal Description

Parcel "A" YAF Plat, according to the Plat thereof, as recorded in Plat Book 125, Page 26, of the Public Records of Broward County, Florida,

Together with:

A portion of the right of way as shown on the YAF Plat, according to the Plat thereof, as recorded in Plat Book 125, Page 26, of the Public Records of Broward County, Florida, and a portion of Newman's Survey according to the Plat thereof, as recorded in Plat Book 2, Page 26, of the Public Records of Dade County, Florida, being more particularly described as follows:

Commence at the southwest corner of Parcel A of said YAF Plat; thence north 88°41'49" east, along the south line of Parcel A of said YAF Plat, 41.64 feet to the point of beginning (the following five courses are along the south line of said Parcel A); thence north 88°41'49" east, 43.39 feet; thence north 01°18'11" west, 12.00 feet; thence north 88°41'49" east, 70.00 feet; thence south 76°01'35" east 45.54 feet; thence north 51°51'38" east, 41.97 feet, thence south 15°01'28" west, along a line being the prolongation of the east line of said Parcel A, a distance of 67.90 feet, thence south 88°41'49" west, along the centerline of SW 36th Street (Oakes Road) 183.40 feet; thence north 14°17" east, along a line being the prolongation of the east line of the 40 foot access easement along the west side of said Parcel A, as shown on said YAF Plat, 41.64 feet to the point of beginning. Said lands situate, lying and being in the Town of Davie, Broward County, Florida, containing 8772 square feet (0.201 acres), more or less.

Total Parcel Area – 49.188 square feet of 1.1292 acres more or less.

EXHIBIT "B"

Eller Media Lease Agreement

Lease#: 59423
Leased by: Greg Hibbs

Dixie Southland Corporation ("Landlord") owns that certain property located in the City of Davie County of Broward, and more fully described as follows:

Address (Commonly): 3599 S. State Road 7, Davie, Florida

Ride Description: US Hwy 441 W 150F N SW 36th St, Davie

Legal Description: Sketch attached as Exhibit "A" a portion of Parcel "A" of "Y.A. F. Plat" 125-26

as recorded in the Public Records of Broward County, State of Florida, (the "Property"). In consideration of the agreements, covenants, promises, representations and warranties contained herein, and for such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord hereby leases to Eller Media, a Delaware corporation ("Tenant"), and Tenant hereby leases from Landlord, the Property on the following terms and conditions (this "Lease"):

1. **Rent.** Tenant shall pay Landlord rent of * Thirteen Thousand & Five hundred and XX/100 Dollars, (\$13,500.00) per year paid Annually in advance, plus Florida Sales Tax, with the first of such payments to be made July 1, 1999 (the "Rent Commencement Date") and thereafter annually on the anniversary of the Rent Commencement Date, each such payment to be Annually period during this period the Lease is in effect. Rent for any partial period shall be prorated on a daily basis.

* \$13,500 annually for first 5 years; \$15,000.00 annually for second 5 years. The first years rent shall be prorated since the few months of rent had been paid, Landlord shall get one check for the months unpaid (January or February 2000) to June, 2000 within thirty days of lease execution date.

2. **Term.** The term of this Lease is for Ten (10) years from the "Rent Commencement Date", as herein defined, ending June 30th, 2009.
3. **Effective Date.** This Lease becomes effective on the date this Lease is fully signed by all parties (the "Effective Date"). However, rent commencement date shall be July 1, 1999.
4. **Purpose.** The purpose of this Lease is for Tenant to construct, and/or maintain and operate a sign structure (the "Structure") on the Property and to operate painted, printed, illuminated and/or electrical signs on the Structure, and all other uses not inconsistent therewith, including all necessary supporting structures, devices, illumination facilities and connections, service ladders, and other appurtenances. Tenant may also use the Structure to provide telecommunications infrastructure and revenue shall be shared 50/50. Any such infrastructure is to be installed in or attached to the Structure.
5. **Tenant's Right to Enter and Use.** For the duration of this Lease, Tenant has the non-exclusive right to enter onto the Landlord property of which the Property is a part and to use the Structure for the purposes described in this Lease and any other purposes allowed or required by this Lease, and Tenant has the exclusive right to use the Property for advertising and the exclusive right to use the Structure to provide telecommunications infrastructure. Tenant shall maintain the Structure at Tenant's cost and expense. Tenant shall pay all utility charges in connection with the operation and maintenance of the Structure. Tenant shall keep structure in clean and good condition working condition, if Landlord notifies Tenant in writing stating the Tenant has not complied with this clause, the Tenant shall have 60 days to correct said defect, in the event, the Tenant does not correct this defect, then the Landlord may give the Tenant a thirty day (30) notice to cancel this lease agreement.
6. **Tenant's Hold Harmless.** Tenant shall hold Landlord harmless and defend from all damage to persons or property resulting from the negligent or intentional acts or omissions on the Property of Tenant's agents, employees or workers in the construction, maintenance, repair or removal of any Structure or any signs thereon. General Liability Insurance naming Dixie Southland as Additional insured with 30 days notice of cancellation and \$1,000,000.00 combined single limit shall be provided by Tenant.
7. **Obstruction.** Landlord shall take all steps necessary to ensure that Landlord, its agents, employees or any other persons acting on Landlord's behalf do not place or maintain any object on the Property or on any neighboring property within Landlord's control which would in any way substantially obscure, obstruct or in any other way substantially affect the view or use of the Structure or any sign thereon. If the view or use becomes substantially obscured, obstructed or otherwise affected, Tenant may, in its sole discretion, without affecting any other remedy Tenant may have, (i) request that the Landlord remove or remedy the obstruction or other condition causing the defect in the view or use, (ii) itself remove or remedy the obstruction or other condition and charge the cost of such removal or remedy to Landlord, or (iii) reduce the rental herein paid to the sum of Five Dollars (\$5.00) per year for the period during which the obstruction or other condition continues. Notwithstanding the foregoing, Tenant has the right to trim or remove any trees, bushes or other foliage in any way inhibiting the view or use of the Structure or any sign thereon.

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- Tenant acknowledges that a building, not in excess of 20 ft in height and is located west of the billboard will not cause an obstruction of the structure.
8. **Ownership/Removal.** At all times, Tenant is and remains the owner of the Structure, and all signs and permits of any kind in relation thereto, and has the right to remove the Structure at any time. Any failure or delay in removing the Structure does not in any way constitute a waiver of Tenant's rights or an abandonment of the Structure, any signs or any permits by Tenant. At all times, Landlord shall allow Tenant reasonable access to the Property to effect any Tenant action allowed or required by this Lease or by applicable law. Following the removal of any Structure, Tenant shall make good faith efforts to return the Property to the condition it was in immediately prior to the removal of the Structure, fair wear and tear excepted. Tenant agrees to clean the area of any debris caused by removal of the Structure.
 9. **Condemnation.** Tenant is entitled to recover from any condemning governmental authority payment for the loss of its leasehold interest, loss of its Structure or the use thereof, and for all other losses for which Tenant is otherwise entitled to recover under applicable law. If the condemning authority pays the condemnation award to Landlord, Landlord shall immediately thereafter pay Tenant the amount specified in the condemnation award for the Tenant's interest. In the event Tenant does not agree with the amount specified in the condemnation award, or the condemnation award does not specify the amount of Tenant's award, Tenant may, in its sole discretion, institute proceedings to acquire an award amount satisfactory to Tenant, from the condemning authority, and Landlord agrees to cooperate fully with Tenant in such event. In the event any right, title or interest of Landlord in the Property or any portion thereof is acquired by any governmental authority or quasi-governmental authority, in any way or manner or by any action whatsoever, and such entity attempts to terminate this Lease, then notwithstanding any such right, title or interest, such authority shall compensate Tenant in the same manner and to the same extent as if such authority had taken the Property or portion thereof by condemnation or threat of condemnation. Landlord and Tenant pursue remedies separately.
 10. **Hold Harmless.** Landlord and Tenant shall defend and hold each other harmless from any liability arising out of the presence, manufacture, transportation, treatment, storage, handling, disposal, processing or use (collectively "Use") caused by the indemnifying party of any substances designated as, or containing components designated as hazardous, dangerous, toxic or harmful by any federal, state or local law, regulation or ordinance, (collectively, "Hazardous Substances") on the Property. Without limiting or affecting the survival of other provisions of this Lease, Landlord's and Tenant's obligations contained in this Section shall survive termination of this Lease. Tenant shall not bring hazardous substances onto the property in violation of this lease.
 11. **Standard Terms and Conditions.** Those terms and conditions contained in the attached Addendum of Standard Terms and Conditions are hereby incorporated herein by this reference.

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IN WITNESS WHEREOF, the undersigned signed this Lease this 22nd day of FEBRUARY, 2000

Paula Latorre
WITNESS: *Raymond Parker*
David C. Kromer
WITNESS: *David C. Kromer*

LANDLORD: Dixie Southland Corporation

Raymond Parker, Jr.
Raymond Parker, President

Address: 810 NE 20th Avenue
City, ST, Zip: Fort Lauderdale, Florida 33304
Telephone: (954) 768-0278
Fax#: (954) 768-0278
SSN or Tax Id. 65-6110401

TENANT:

Eller Media
a Delaware corporation

John Jacobs 7/14/00 *[Signature]*
John Jacobs
President

Eller Media
5800 NW 77th COURT
MIAMI, FL 33166
Attention: Real Estate Department

Phone: (305) 592-6250
Fax: (305) 714-3480

Memorandum of Standard Terms and Conditions

Entire Agreement. This lease, and all addenda, exhibits, memoranda and schedules attached to it, contains the entire agreement between the parties for the purposes described herein and supersedes all prior agreements regarding the lease of the Property. The terms of this Lease are contractual and not a mere recital. No modification of this Lease shall be binding upon either party unless reduced to writing and signed by both parties. Tenant may not record this lease or a memorandum of this lease, if Tenant records any document in the Public Records of Broward County, Florida, the landlord may terminate this lease.

Exhibits/Schedules. All addenda, exhibits, memoranda and schedules attached hereto and referred to herein are incorporated herein by such reference. Any addendum, exhibit, memorandum or schedule to this Lease not attached hereto at the time of signature, may be attached at a later time, however any such addendum, exhibit, memorandum or schedule must be agreed to in firm and consent and in writing by Landlord and Tenant prior to attachment.

Party and Costs. In the event either party brings an action or proceeding (including, without limitation, any cross-complaint, counter claim or third party claim or any litigation undertaken in the context of bankruptcy proceedings) to enforce or construe this Lease or otherwise arising out of this Lease, then the substantially prevailing party in an action or proceeding shall be entitled to recover its costs and expenses of suit and any appeal and review, including (without limitation) reasonable attorney fees, from the losing party. The phrase "substantially prevailing party", as used herein, shall be determined by the court as the true prevailing party after taking into consideration any settlement offers made by the parties and the number and importance of issues to be determined.

Force Majeure. For purposes of this Lease, neither Landlord nor Tenant in the case may be, nor any successor in interest, shall be considered in breach of, or default in, any of its obligations, including but not limited to, to construct, improve, repair, restore or make other physical improvements or take any other actions required or permitted under this Lease as a result of the enforced delay in or prevention of the performance of such obligations where delays or defaults are due to war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; pestilence, acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; government restrictions or priority; unusually severe weather; inability to secure necessary labor, materials or tools; acts of the other party; acts or failure to act of any public or governmental agency or entity; or any other cause beyond the control or without the fault of the party claiming an extension of time to perform.

Governing Law. This Lease is governed by and construed under the laws of the state of Florida as to matters of procedure and substantive law. The jurisdiction of any action hereunder is in the Superior Court, Broward County, State of Florida.

Notice. All notices or requests required or permitted under this Lease, unless otherwise specifically provided, must be given in writing, are deemed to have been properly made on the date of receipt if personally served, delivered by sent by courier delivery service, overnight delivery service or transmitted by facsimile, or three (3) days after the date delivered to the US Postal Service, if sent by certified mail, return receipt requested, to the appropriate party at the address or contact number set forth in the Lease. Either party may change its notice address and contact numbers by giving written notice to the other.

Representations. Landlord represents and warrants that Landlord is the owner or master lease holder of the property, and has the authority and right to make this Lease. If Landlord is an entity, each individual executing and delivering this Lease on that entity's behalf warrants that he or she is duly authorized to do so.

Remedies. The remedies provided for in this Lease are non-exclusive and are in addition to each other and to any other remedy available elsewhere in this Lease or available generally at law or in equity. The parties shall give ten (10) days written notice to the other prior to exercising any remedy to which they are entitled.

Rules of Construction. This Lease is to be construed so that, wherever applicable, the use of the singular includes the plural, the use of the plural includes the singular, the use of any gender is applicable to all genders, and the word "person" includes corporations, partnerships (including limited partnerships), estates, governmental authorities and all other entities, and all references to the parties include their officers, employees, agents, representatives, successors, heirs, assigns, and all associated entities. The titles and subtitles used in this Lease are used for convenience only and are not to be considered in construing or interpreting this Lease. This Lease and each of the terms and provisions hereof are deemed to have been explicitly negotiated between, and mutually drafted by, the parties, and the language in all parts of this Lease shall, in all cases, be construed according to its fair meaning and not strictly for or against either party. This Lease is to be dated as of the latest date of signature of a party to the Lease.

Severability. If any term or provision of this Lease, or the applicability of a term or provision to any person is to any extent invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons other than those to which it is held invalid or unenforceable, is not affected and continues in full force and effect.

Successors and Assigns. The Tenant may not assign this lease agreement without prior written consent of the Landlord. This Lease issues to the benefit of and binds all parties and their permitted successors and assigns, and including the execution, administration, or other personal representatives of individual parties. Landlord shall provide written notice to Tenant of the sale or other transfer of the Property and Tenant is not in breach of this Lease for failure to pay rent if Tenant has not received such written notice. The parties agree not to assign any of their respective interests hereunder, including but not limited to, rights to receive income, rights to and of management, and their respective obligations hereunder, without first obtaining the written consent of the other party, which consent cannot be unreasonably withheld. Notwithstanding any other provision of this Lease, Tenant has the right, without prior consent of Landlord, to transfer to or cause the assumption of all its obligations and rights under this Lease by: (a) any parent, subsidiary or affiliated corporation of Tenant; (b) any subsidiary of any parent of Tenant; (c) any corporation with which Tenant may merge or consolidate; (d) any entity with which Tenant is conducting a swap of one (1) or more structures with a third party; or (e) any entity acquiring all or substantially all of the assets of Tenant. Tenant shall furnish Landlord with written notice of any such action, and any such assignee shall use the Property in a manner consistent with terms of this Lease. The sale of any amount of stock by public offering is deemed not to be an assignment for the purposes of this Lease.

Waiver. No failure of either party to exercise any right or power given either party hereunder or to insist upon strict compliance by either party with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

EXHIBIT "A"

SKETCH & DESCRIPTION

A PORTION OF PARCEL 'A'

"Y.A.F. PLAT"

(PLAT BOOK 125, PAGE 26, B.C.R.)

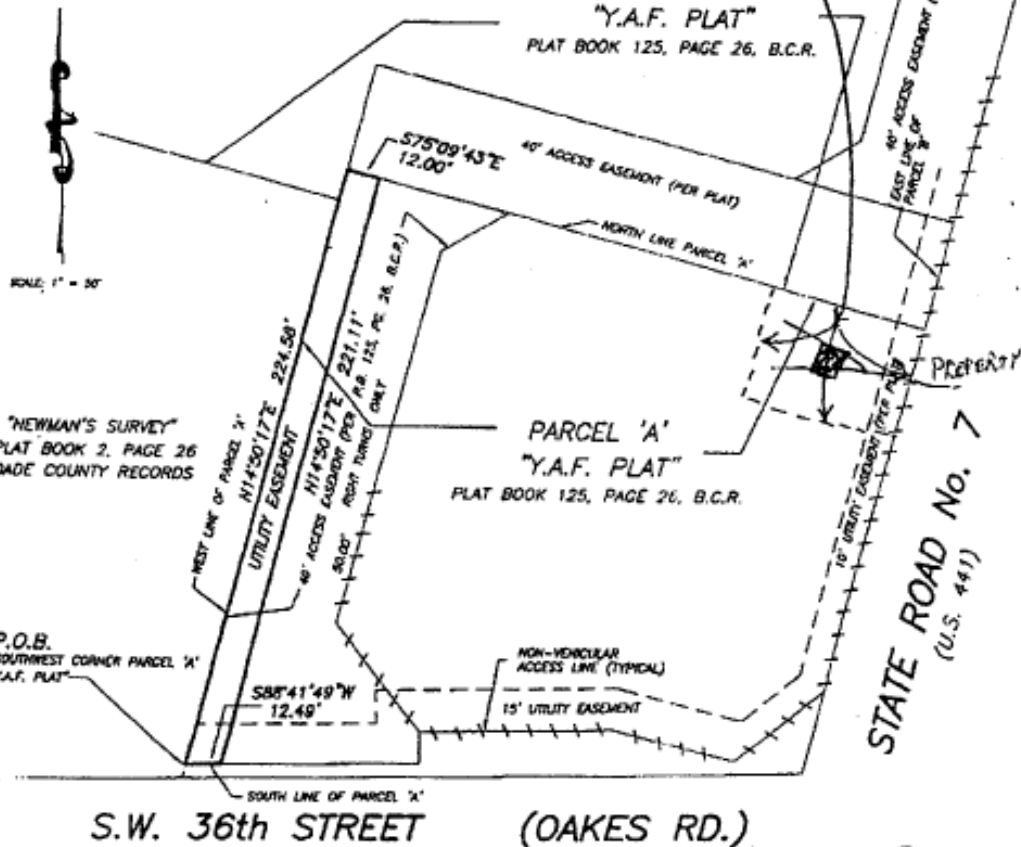
TOWN OF DAVE, BROWARD COUNTY, FLORIDA

AK MEDIA OVERHANG
BILLBOARD LEASE
AREA

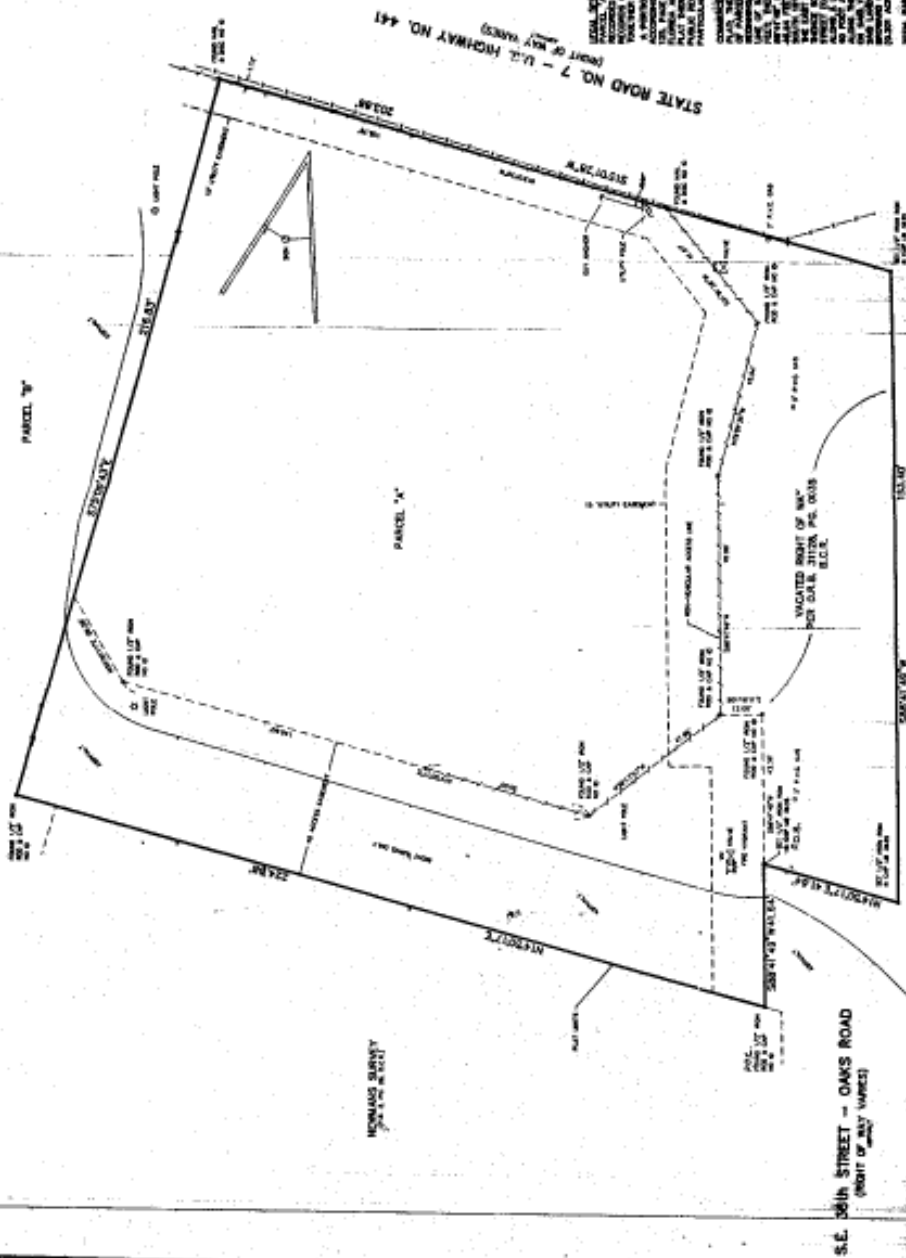
PARCEL 'B'

"Y.A.F. PLAT"

PLAT BOOK 125, PAGE 26, B.C.R.



Ref



ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. DATE 11-29-2011 BY 60322 UCBAW/STP

[illegible]

**COMPLETE SUMMARY APPRAISAL REPORT
OF
VACANT INDUSTRIAL PARCEL
LOCATED AT
NWC SOUTH STATE ROAD 7 & OAKES ROAD
DAVIE, FLORIDA**

Appraisal No. 2002170.acd

FOR

c/o Mr. Donald DiPetrillo, Fire Chief
Town of Davie Fire Department
6591 Orange Drive
Davie, FL 33314

BY

SOUTHERN VALUATION SERVICES, INC.
555 SW 12 Avenue, Suite 100
Pompano Beach, Florida 33069



August 23, 2002

Mr. Donald DiPetrillo, Fire Chief
Town of Davie Fire Department
6591 Orange Drive
Davie, FL 33314

Re: Vacant Industrial Parcel
NWC S State Road 7 and Oakes Road, Davie, Florida

Dear Mr. DiPetrillo:

This is a Summary Appraisal Report which is intended to comply with reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Summary Appraisal Report. As such, it presents only summary discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analysis is retained in the appraiser's file. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated below. The appraiser is not responsible for unauthorized use of this report.

Per prior agreement between the client and the appraiser, this report is the result of a complete summary appraisal process, **no departures from specific guidelines of the Uniform Standards of Professional Appraisal Practice were invoked.** The subject property is a vacant industrial parcel for which only the Direct Sales Comparison Approaches was appropriate.

"As Is" Market Value - \$690,000

The above value includes \$135,000 for an advertising billboard which generates \$13,500 per year in income for the subject owner.

APPRAISAL REPORT

OF



**49,188 SQ FT VACANT LAND PARCEL
WITH OUTDOOR ADVERTISING LAND LEASE**

OWNER: FW HOLDING 441 INC.

LOCATED AT

**OAKES ROAD AND STATE ROAD 7
DAVIE, FLORIDA**

AS OF

SEPTEMBER 30, 2002

PREPARED FOR

**CHIEF DONALD DIPETRILLO
FIRE CHIEF
TOWN OF DAVIE
6901 ORANGE DRIVE
DAVIE, FLORIDA 33314**



October 22, 2002

Chief Donald DiPetrillo
Fire Chief
Town of Davie
6901 Orange Drive
Davie, Florida 33314

**RE: FW Holding 441 Inc. Property
Vacant Land-Oakes and State Road 7 (441)
Davie, Florida**

Dear Chief DiPetrillo:

Per your request, we have prepared a complete appraisal of a vacant parcel of land located along the west side of State Road 7 with access to Oakes Road in the Town of Davie, Florida. The subject property is a vacant site, which is currently listed for sale with an asking price of \$800,000. Also located on the site is an outdoor advertising structure. The actual structure will not be valued in this assignment; however, the income stream for the land lease is considered as a bonus value to the underlying land value.

The purpose of this appraisal is to estimate the market value of the fee simple interest of the subject property together with the market value for the outdoor advertising lease and income stream for the sign structure or the leased fee value for that portion of the property. The function of the report is for your internal use for a potential purchase of the property. The date of value is September 30, 2002.

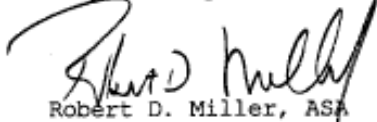
The property contains 49,188 square feet of land area (1.13 acres). The highest and best use is for future development with some type of heavy industrial use and or some industrial use that will benefit from the exposure to State Road 7. The billboard provides additional income to the site and the highest and best use would be for the continued use of the billboard in conjunction with future development.

Chief DiPetrillo, Esq.
October 22, 2002
Page 2

Based upon a market data analysis contained in the attached **Summary Appraisal Report**, it is my opinion that the market value of the property as described therein as of September 30, 2002, is as follows:

SIX HUNDRED EIGHTY TWO THOUSAND DOLLARS
(\$682,000)

Respectfully submitted,



Robert D. Miller, ASA
State-Certified General Real Estate Appraiser #0001270

**MILLER
APPRAISAL
GROUP
INC.**